IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9718 OF 2004

South Ratnagiri District Shikshan Prasarak Mandal .. Petitioner

V/s

The University of Mumbai & Ors. .. Respondents

Mr.S.M. Gorwadkar for the Petitioner.

Mr.Rui Rodrigues with Mr.B.V. Phadnis for Respondent No.1.

Mr.A.D. Thorat for Respondent No.2.

CORAM : H.L. GOKHALE & J.H. BHATIA, JJ.

DATE : 14TH JULY 2006

P.C. :

1. Heard the counsel for the parties.

2. The petition is filed by the college management running Arts, Science and Commerce College at Sawantwadi. One of the subjects which is taught during the first and the second year of graduation in Arts is Foundation Course. The college is imparting instructions through Marathi medium. Respondent No.2 has been appointed in that college from 1989-90. The post was meant for a scheduled caste candidate, but since a candidate from the particular reserved category

was not available, Respondent No.2 was appointed and has been continued since then.

3. It has so happened that questions were raised with respect to the eligibility of Respondent No.2 to teach the subject and with respect to his qualification. He has obtained B.A. Degree from Shivaji University in Rural Development and Sociology with 57% marks and thereafter has done M.S.W. with 67% marks. The college management was not sure as to whether Respondent No.2 could be said to be qualified.

4. One writ petition came to be filed earlier being Writ Petition No.2044 of 1992. That petition was filed by Respondent No.2. In that writ petition, a Division Bench of this Court passed an order directing the University to inquire and ascertain whether he was eligible for the post of Lecturer in Foundation Course. The University thereafter appointed a Committee and also obtained the opinion of the Dean of faculty of Arts. The Dean gave an opinion in favour of Respondent No.2 and therefore a letter was sent dated 19th September 2003 informing the Petitioner institution that the technical objection with respect to his eligibility as a Lecturer in the subject concerned had been set aside. The University asked the college to report the appointment in the prescribed form for the approval of

the University. It is this letter which has been challenged by the Petitioner institution.

5. Mr.Rodrigues for the University has filed an affidavit of one P.M. Gosavi, Deputy Registrar of the University affirmed on 14th July 2006. He has explained therein the circumstances in which the opinion of the Dean of faculty of Arts was obtained and has incorporated the opinion of the Dean in his affidavit. From this opinion, it is quite clear that the appointment of Respondent No.2 could be considered to be a valid one as a Lecturer in the subject of Sociology to teach the Foundation Course on the basis of he being MSW. That is stated in the opinion of the Dean itself.

6. Inasmuch as this is the opinion of the University, as far as eligibility of Respondent No.2 is concerned, in our view, the controversy must end at that. The present petition is confined only with respect to the letter of the University dated 19th September 2003. In our view, there is no reason to interfere therein. Petition is therefore dismissed.

(H.L. GOKHALE, J.)

(J.H. BHATIA, J.)